

AMENDMENT UNDER 37 C.F.R. § 1.111
U.S. Patent Application No. 10/634,774

REMARKS

Claims 1-7 presently are pending in the application. Claims 1-3 are rejected, whereas claims 4-7 are objected to. Reconsideration and allowance of all claims are respectfully requested in view of the following remarks.

The Examiner has kindly acknowledged the claim for foreign priority under 35 U.S.C. § 119, as well as receipt of the certified copy of the priority document.

The Examiner has returned an initialed copy of the modified PTO/SB/08 thereby indicating that she has considered the references listed thereon.

The Examiner indicates that the drawings filed together with the application on August 6, 2003 are accepted.

The Examiner has objected to the disclosure for various informalities. The Applicants have amended the specification as suggested by the Examiner. Moreover, the Applicant has made a number of editorial corrections to the specification. The Examiner is requested to reconsider and withdraw the objection to the disclosure in view of the above amendments.

The Examiner has objected to claim 4 because of minor informalities. Accordingly, the Applicant has amended claim 4 as suggested by the Examiner as well as additional editorial amendments in order to improve the readability of claim 4. Likewise, the Applicant has made a minor editorial correction to claim 1 to improve clarity. The amendments to claims 1 and 4 were made for reasons of precision of language and do not narrow the literal scope of the claims and thus do not implicate an estoppel in the application of the doctrine of equivalents. The Amendments to claims 1 and 4 were not made for reasons related to patentability.

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The Applicant would like to thank Examiner Austin for conducting a telephone interview with respect to the above-identified application on March 10, 2005. A summary of the substance of the interview is discussed below with respect to the prior art rejection.

Claims 1-3 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,421,223 (Hong). For the following reasons, this rejection is respectfully traversed.

The present invention relates to a battery loading device for a portable electronic apparatus in which two kinds of batteries can be selectively loaded in a simple and accurate manner and in which the space of a battery chamber can be reduced.

As shown in Fig. 3, a battery chamber 41 in which two kinds of batteries can be selectively loaded is provided in the corner of, for example, a digital camera 10. The two kinds of batteries could be, for example, a readily available primary battery such as a AA dry cell 43, and a chargeable secondary battery such as a battery pack 45. The dry cell 43 and the battery pack 45 are respectively inserted and taken out through loading gates 47 and 49. The battery chamber 41 is used by both the dry cell 43 and the battery pack 45, so that the space of the battery chamber can be reduced as compared with the case where two battery chambers are provided. Accordingly, the battery chamber 41 permits miniaturization of the electronic apparatus, such as a digital camera.

In the rejection under § 102 (b), the Examiner alleges that Hong teaches all of the recitations of claims 1-3 including a battery compartment 30 which allegedly meet Applicant's chamber, a cap 40 which allegedly meets Applicant's first lid, and a secondary battery compartment 50 which again allegedly meets Applicant's chamber, with a cap 60 which

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allegedly meets Applicant's second lid. The Examiner further maintains that the openings are on different exterior surfaces of the electronic device with a primary battery compartment opening facing either the wall on which the openings 31 and 32 are formed or the bottom of the compartment (referencing Fig. 3 of Hong) and thereby meets Applicant's first chamber wall. The Examiner further maintains that the secondary battery compartment opening faces the wall adjacent to the hole 70 or the bottom of the compartment and thereby meets Applicant's second chamber wall. Finally, the Examiner alleges that although not shown in the figure, contacts must be present in the compartments.

For the following reasons, Applicants vigorously disagree with the Examiner's position and analysis.

To support a conclusion that a claimed invention lacks novelty under 35 U.S.C. § 102, a single source must teach all of the elements of a claim. *Hybritech Inc. v. Monoclonal Antibodies, Inc.*, 802 F.2d 1367, 1379, 231 U.S.P.Q. 81, 90 (Fed. Cir. 1986). A claim is anticipated only if each and every element as set forth in the claim is found either expressly or inherently in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987). A single source must disclose all of the claimed elements arranged as in the claim. *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989). A proper anticipation rejection requires that every element of the claim be found "in a single prior art reference." See *In re Robertson*, 169 F.3d 743, 745, 49 U.S.P.Q.2d 1949, 1950 (Fed. Cir. 1999). For anticipation to exist, there must be no difference between the claimed invention and the reference disclosure, as that reference would be

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understood by one of ordinary skill in the art. *See Scripps Clinic & Research Found. v. Genentech, Inc.*, 927 F.2d 1565, 1576, 18 U.S.P.Q.2d 1001, 1010 (Fed. Cir 1991); *see also, Crown Operations Int'l, Ltd. v. Solutia, Inc.*, 289 F.3d 1367, 62 U.S.P.Q.2d 1917 (Fed. Cir. 2002). Further, “an anticipating reference must describe the [claimed] subject matter with sufficient clarity and detail to establish that the subject matter existed and that its existence was recognized by persons of ordinary skill in the field of the invention.” *ATD Corp. v. Lydall, Inc.*, 159 F.3d 534, 545, 48 U.S.P.Q.2d 1321, 1328 (Fed. Cir. 1998) (citing *In re Spada*, 911 F.2d 705, 708, 15 U.S.P.Q.2d 1655, 1657 (Fed. Cir. 1990)). Rejections under 35 U.S.C. § 102 are proper only when the claimed subject matter is identically disclosed or described in the prior art. Thus, the cited reference must clearly and unequivocally disclose every element and limitation of the claimed invention.

Turning to claims 1-3, claim 1 recites, *inter alia*:

...a battery chamber in which a first type battery or a second type battery is selectively loaded;

a first loading gate to which said first type battery is loaded in said battery chamber, said first loading gate being provided in a first exterior surface of said electronic apparatus so as to face a first chamber wall of said battery chamber;

a first lid for opening and closing said first loading gate;

a second loading gate through which said second type battery is loaded *in said battery chamber*, said second loading gate being provided in a second exterior surface of said electronic apparatus *so as to face a second chamber wall of said battery chamber*, said exterior surface being approximately perpendicular to said first exterior surface.... (emphasis added)

Claim 1 quite clearly recites that the same battery chamber is selectively used by both the first type battery and the second type battery albeit being accessed through separate loading gates

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provided on separate exterior surfaces of the portable electronic apparatus which are approximately perpendicular to each other.

Hong, on the other hand, in Fig. 3 quite clearly shows a first primary battery compartment 30 and a separate secondary battery compartment 50 which is separate and distinct from the primary battery compartment 30. Accordingly, Hong clearly fails to teach or even remotely suggest all of the recitations of Applicant's claim 1 since Hong is not accessing a common battery chamber through separate loading gates, but rather is accessing two separate battery chambers through separate loading gates.

Further, independent claim 1 quite clearly recites a first contact segment being provided in the first chamber wall of the battery chamber and being contacted with an electrode of the first type battery, and a second contact segment being provided in the second chamber wall (of the same battery chamber), the second contact segment being contacted with an electrode of the second type battery. Here, the Examiner merely alleges that although no contacts are shown or disclosed by Hong, contacts must be present in the compartments. However, Applicant's claim 1 clearly recites first and second contact segments on corresponding first and second chamber walls, respectively, in the same battery chamber. Although Hong is totally silent with respect to contacts, any such contacts would clearly be positioned in separate battery compartments 30 and 50 and not in a single battery chamber as in the present invention.

In addition, claim 1 has been amended in order to make more explicit what, as noted above, is at least implicit; namely, that the same battery chamber is selectively used by both the first type battery and the second type battery. In this regard, the term --common-- has been

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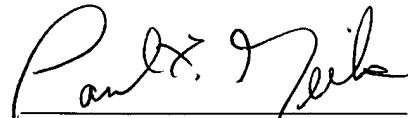
inserted before "battery chamber" in order to clarify this feature of the invention as discussed during the above-noted interview with Examiner Austin on March 10, 2005. Again, this Amendment is made to improve clarity and simply make more explicit which was at least implicit in the original claims. Accordingly, this Amendment should not implicate an estoppel in the application under the doctrine of equivalents.

Dependent claims 2 and 3 are patentable for the reasons given above with respect to claim 1, as well as the additional recitations set forth therein.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



Paul F. Neils
Registration No. 33,102

SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

WASHINGTON OFFICE
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